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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,542	03/03/2005	Gilles, Jacques, Abel, Marie Motte Dit Falisse	Q86637	5263
7590 Gilles Falisse Rue de Boncelles 794 4102 Liege-Ougree, 4102 BELGIUM			EXAMINER BOEHLER, ANNE MARIE M	
			ART UNIT 3611	PAPER NUMBER
			MAIL DATE 06/07/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/526,542

Applicant(s)

MOTTE DIT FALISSE, GILLES,
JACQUES, ABEL

Examiner

Anne Marie M. Boehler

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,4,8-11 and 13-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2,4,8-11 and 13-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The spacing of the lines of the specification is such as to make reading difficult.

New application papers with lines 1½ or double spaced on good quality paper are required.

2. The amendment filed January 22, 2007 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: Amendments to the specification after filing must be limited to correction of clerical errors. It may not be used to redraft the specification in any way to add new matter to the specification. In the present case, it is not clear why applicant has extensively rewritten his original specification. The changes clearly go beyond simple clerical corrections, they confuse the meaning of terms used in applicant's originally filed description of the invention, and the amendments are believed to constitute new matter. For example, on page 7 of the marked up copy of the specification, line 10, applicant deleted "a nut and bolt" and added " a crew, brace, two washers, and a self-locking nut". It not clear where applicant can find support for those details in the original specification. Also, on page 7, applicant has changed "second pivot pin" to "adjusting and locking pivot". It is not clear why the change has been made, what constitutes an "adjusting and locking pivot", and how that differs from the pivot pin and associated structure originally described. On page 8, reference to "clamping bolt" have been changed to "clamping screw", however, "clamping bolt" appears to be the correct term. On page 8, line 3, applicant has added

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that the first part of first piece 22 supports "the patent EP 1593593". Applicant may not add the disclosure of additional structure to the specification. The subject matter of EP 1593593 was not part of applicant's original disclosure and cannot be added after filing. Also, applicant cannot incorporate by reference a foreign patent, if that is what applicant intended to do.

Applicant is required to cancel the new matter in the reply to this Office Action.

3. Claims 2, 4, 8, 9-11, and 13-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2, line 2, "it is not clear to which pivot "the pivot" refers.

In claim 4, line 2, "(pre-adjusting)" should be deleted. Parenthetical terms are generally indefinite because it is not clear if they are required claim terms.

In claim 9, lines 3-4, "all types of vehicle to which the present invention applies" is indefinite because it is not clear what vehicles would be included. In lines 4-5, "or by another drive method, i.e. directly on the ground or by airscrew" is unclear. A "method" cannot be claimed in an apparatus claim. Also, providing examples in a claim is improper. Every element claimed must be clearly part of the claimed combination. Examples, create confusion about whether the structure of the example is necessarily claimed, or if other structure can replace it.

In claim 13, line 2, "the handlebar" and "the foot" and "the frame" lack clear antecedent basis in the claim. In line 3, the period"." Must be deleted. All claims must

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be presented in one-sentence form. In line 5, "the pivot" lacks antecedent basis and is unclear.

In claim 14, line 2, Applicant claims "apparatus to alter the travel for a setting which remains fixed". It is unclear here whether the setting is adjustable or remains fixed. In lines 3-4, "being able to pivot only where this has been preset for a given installation" is unclear.

In claim 15, "the parts" of the fixing member is unclear because "parts" have not been referenced. Lines 6-7 must be deleted because the claim must be in one-sentence form and references to particular pages of the specification and drawings figures is not allowed.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 13, 2, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Baker (EP 0155185).

Baker discloses a friction drive device 22, mounted on a first part 10 which is pivotally connected to a second part 14 at 12. The second part includes a fastener (dotted line attached to frame 16) and a second pivot (unnumbered, between 14 and 16). The angle between elements 14 and 16 of the second part can be fixed by adjustment means 30, 32. The two pivots are spaced apart. A stop 28 limits the angle

of pivot about the first pivot. The drive device includes a motor 20 arranged to frictionally drive bicycle wheel 24.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baker in view of Weidner (DE 29921956).

Baker lacks a first part with several seats for adjusting the position of the first pivot pin.

Weidner teaches that a member may have several pivot seats (Fig. 11-4) in order to provide the obvious benefit of providing various mounting locations (Fig. 1-4)>

It would have been obvious to one of ordinary skill in the art to provide the first part of Baker with several seats for adjusting the position of the first pivot pin, as taught by Weidner, in order to provide various secure mounting positions.

8. Applicant's arguments filed January 22, 2007 have been fully considered but they are not persuasive.

Applicant argues that Baker and Sinclair show more than one fastener. While applicant now claims "a single fastener adapted either to the handlebar ...", applicant has not clearly limited the invention to a universal member with no more than one connection to the bicycle. Applicant claims a member "comprising" certain structure, therefore, it is open to including additional structure. Therefore, as claimed, the

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invention has a single fastener that performs that claimed function, but additional structure, including additional fasteners, may also be included.

Applicant argues that Baker's second pivot (at 12) is not fixed. The examiner disagrees. In certain embodiments the link 34, 36, 40, 44, has resilient members, however, in the embodiment of Figure 2, Baker has a link 30, 32, that fixes the position of the pivot, as claimed. Therefore, the claim language is believed to be met.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne Marie M. Boehler whose telephone number is 571-272-6641. The examiner can normally be reached on 7:30-5:00, Monday-Thursday, and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6612. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ambh 4/30/07
ANNE MARIE BOEHLER
Primary Examiner